

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK NALI,

Plaintiff,

v.

Case No. 06-10205

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al.,

HONORABLE AVERN COHN

Defendants.

ORDER

ADOPTING REPORT AND RECOMMENDATION

AND

GRANTING THE CITY OF ST. LOUIS'S MOTION TO DISMISS

AND

DISMISSING PLAINTIFF'S CLAIMS AGAINST THE MAYOR OF ST. LOUIS

(unidentified), R. MCCORKIE, M. PRYSBY, and S. MEPHAN

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff is pro se. On January 17, 2006, plaintiff filed a 23 page complaint naming 23 defendants with 269 paragraphs and 164 pages of exhibits. The matter has been referred to a magistrate judge for pre-trial proceedings, and before whom the City of St. Louis filed a motion to dismiss.

II.

Plaintiff names the City of St. Louis in Counts III and IV, both alleging gross negligence, against the City of St. Louis and its officials. Plaintiff also lists various officials of the City of St. Louis and its water department in Count III and Count IV. These include the Mayor (unidentified), R. McCorkie, manager, M. Prysby, the engineer of the water department, and S. Mephan, the water superintendent. Plaintiff's claims arise from plaintiff's complaints about the water at the Michigan Department of Corrections (MDOC) St. Louis facility where plaintiff was at one time housed.

III.

On July 10, 2007, the City of St. Louis filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6), essentially arguing that plaintiff's claims are barred by governmental immunity.

On January 8, 2008, the magistrate judge issued a report and recommendation (MJRR). The magistrate judge recommends that the City of St. Louis's motion be granted on the grounds that the city is immune. The magistrate judge also recommends that the individual defendants, noted above, be dismissed because they have not been served, plaintiff has not alleged any facts from which any involvement on their part could be inferred, and to the extent they are sued in their official capacity, they are also entitled to immunity.

IV.

Plaintiff has not objected to the MJRR and the time for filing objections has passed. In any event, the Court agrees with the magistrate judge. Accordingly, the MJRR is ADOPTED as the findings and conclusions of the Court. The City of St. Louis's motion to dismiss is GRANTED. Furthermore, defendants the Mayor of St. Louis, R. McCorkie (the Manager), M. Prysby (the Water Department Engineer), and S. Mephan (the Water Superintendent) are DISMISSED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: February 4, 2008

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record and Frank Nali, 449422, Pugsley Correctional Facility, 7401 E Walton Road Kingsley, MI 49649 on this date, February 4, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160